

4 September 1984

MEMORANDUM FOR: Director of Central Intelligence

THROUGH: General Counsel
Director, Office of Legislative Liaison

FROM:
Counsel to the DO

SUBJECT: H.R. 5164 - Legislative Strategy

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1. H.R. 5164 (the CIA Information Act) is scheduled to go to the House floor, with Mr. English's (b)(3) amendment, and is expected to pass the House next week under a suspension of the rules. We are informed that, when our bill reaches the Senate, the Department of Justice will attempt to have the (b)(3) amendment removed and the bill sent back to the House. Such an action is almost certain to kill our bill. We are reliably informed by HPSCI staff that the HPSCI will not be willing to try to persuade Mr. English to withdraw his (b)(3) amendment.

2. We recommend the following courses of action:

- A. 1. Call Attorney General Smith and impress upon him the importance of this legislation to the CIA and seek his agreement to withdraw his objection to the (b)(3) amendment at the appropriate time. (We would be willing to delay Senate action on our bill in order to give DoJ the opportunity to extract concessions from Mr. English's committee on the government-wide FOIA bill).
- A. 2. Request the DoJ to refrain from further legislative action concerning our legislation until the Administration has had an opportunity to decide upon its position.
- B. If the Attorney General does not agree to withdraw his opposition, raise the matter with National Security Adviser McFarlane and the Counsel to the President. (The entire issue has been brought to OMB's attention by letter dated 30 August 1984, which OMB has forwarded to the NSC staff and the staff of the Counsel to the President.)
- C. Call Chairman Goldwater and stress the following:

- (1) The House is about to pass our FOIA legislation with an amendment that the Department of Justice opposes;
- (2) We understand that DoJ has been working to gain Senate support to strike the amendment when the bill reaches the Senate and send the bill back to the House.
- (3) We strongly believe such action will render chances of enactment of our bill to near zero; and
- (4) We hope that the Chairman will continue his strong support of our FOIA bill and work to prevent action that would jeopardize passage of the bill during the remainder of this session.

D. Call Senator Thurmond and stress the following:

- (1) The House will pass the CIA Relief Bill with an amendment opposed by DoJ that will prohibit the government from using the Privacy Act as an exempting statute under the FOIA.
- (2) We have no opposition to the House bill as amended and believe it should be passed by the Senate without any changes.
- (3) If the Senate strikes the House amendment and sends the bill back to the House, the chances of enactment of our legislation during the remainder of this Congress will be reduced to near zero.
- (4) It is important that CIA relief legislation be passed this year since prospects for enactment during the next Congress are bleak.

Bottom Line

There is no possibility of compromise between CIA and DoJ on the (b)(3) amendment. If our FOIA legislation is to have any realistic chance of enactment, DoJ must withdraw their opposition to this provision as part of our bill. Hopefully, they can be made to see this and use this opportunity to their advantage in their negotiations with House Government Operations on S. 774 to achieve the best legislative package ever possible.

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FOIA LEGISLATION

SCHEDULE OF ADMINISTRATION AND LEGISLATIVE CONTACTS

Administration

Person To Be Seen

Attorney General

Jensen/McConnell

McFarlane

Fielding

Kimmitt

Agency Contact

DCI

It is suggested that Briggs Sporkin and [] arrange meetings to brief Jensen and McConnell prior to DCI meeting with Attorney General

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DCI

Sporkin and []

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Prior to briefing McFarlane Sporkin and [] will have preliminary talk with Kimmitt

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Legislative

Prior to arranging the suggested meetings, it would be helpful if the DCI would phone Goldwater and Thurmond directly. Briggs and [] will set up the meetings with Goldwater, Thurmond, Boland and English as necessary. [] will continue to work with English's staff in order to assure that the Department of Justice's FOIA bill continues to make progress and to try to see if there is any chance of English backing down on his insistence in including the b(3) amendment in our bill.

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By week's end -- Friday/Saturday -- there should be a strategy session with the DCI, Briggs, Sporkin and [] to evaluate the results of our efforts.

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